

STATE OF NEW HAMPSHIRE

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

BARRINGTON EDUCATION ASSOCIATION, AFFILIATED WITH NHEA/NEA	:	
	:	
v.	:	CASE NO. T-0298:2
	:	
BARRINGTON SCHOOL BOARD	:	DECISION NO. 80002
	:	

APPEARANCES

Representing the Barrington Education Association:

Anne Richmond, Esquire
Mark Greenwood, Teacher
Connie Parsons, Teacher

Representing the Barrington School Board:

Bradley Kidder, Esquire, Counsel
Gail Kinney, School Board Member
Rachel Millette
Lee Mason
Barry L. Clough, Superintendent of Schools
Robert Smolen, Principal

WITNESS: Dr. Newell Paire

BACKGROUND

Having been dissatisfied with the decision of this Board (No. 79018) ordering reinstatement of two teachers, the School Board filed for a rehearing which was initially denied. The School Board appealed to the Supreme Court of New Hampshire which appeal is pending and the Board sought enforcement of its order in the Strafford County Superior Court (E-8973) which resulted in a temporary order dated December 10, 1979 (Mullavey, J.) enforcing the order of the Board. Alleging new evidence and special need, the School Board requested a rehearing again for the Board to consider certain additional evidence unavailable at the previous hearings, specifically a report by Dr. Newell J. Paire, former State Commissioner of Education, who had been employed by the Barrington School Board to advise it on conditions in the Barrington Elementary School, the school involved in this case. Following a discussion between the chairman of this Board and counsel for the School Board, it was agreed that a rehearing would be held for the limited purpose of considering Dr. Paire's report which was alleged to have relevance to this case and the Board's findings. Over the strenuous objection of the New Hampshire Education Association which alleged that such a rehearing was illegal, untimely and unfair, the Board held its special rehearing for the limited purpose of receiving the report on December 13, 1979 at the Board offices in Concord. At the hearing, NHEA formally objected to the holding of the hearing and the presentation of any evidence of any report by Dr. Paire, it being agreed by all parties that the report was prepared and submitted to the School Board in

September of 1979, long after all of the events relevant to the decision of the PELRB. At the hearing, the Barrington School Board attempted to introduce evidence in addition to the Paire report and the Board sustained the objection of the NHEA excluding any such evidence, noting the exception of the School Board to that ruling. The Board took under advisement the objections of the NHEA to the holding of the hearing and the presentation of any additional evidence.

FINDINGS OF FACT
AND RULINGS OF LAW

Newell Paire, the former Commissioner of Education, was hired by the Barrington School Board to investigate concerns felt by the Board and reported to it regarding morale and personnel in the Elementary School, according to Gail Kinney, Chairman of the School Board. He was hired as an independent third party to investigate the situation. Dr. Paire met with teachers, parents, administrators, and interested parties, prepared a report and submitted it to the School Board on September 14, 1979. The Board found in its earlier decision that certain events which took place on or about March 13, 1979 were relevant to its decision concerning union activity and the dismissal of two teachers, Mark Greenwood and Constance Parsons. Upon examination, Dr. Paire indicated that he did not investigate the reasons for non-renewal of these teachers, that union activity was not one of the matters discussed by him in preparing his report, and that, while he was familiar with the teachers in question and was doing his investigation at the same time that the activities were taking place which were mentioned in the previous decision of this Board, he did not specifically investigate these events or take part in them. Indeed, Dr. Paire indicated he was not aware of the unfair labor practices which were filed.

It is the position of the Barrington School Board that the evidence presented, Dr. Paire's testimony and report, is necessary because it presents evidence of the reasons for the non-renewal of the two teachers. The School Board reads the previous decision of this Board to indicate that there was no evidence of non-renewal resulting from union activity and, therefore, if additional evidence concerning the reasons can be established, an explanation for the non-renewal can be found. This Board would note that its earlier decision did not state that there was no evidence that union activity was the reason for the firing but stated that there was no direct testimony or documentary evidence indicating that the teachers were not renewed because of union activity. There was much evidence concerning union activity, knowledge by the School Board of that activity and circumstances sufficient for the Board to find from the evidence presented that the teachers were not renewed because of union activity.

The Board has examined the report of Dr. Paire and the evidence presented at the hearing. There is nothing in Dr. Paire's report to overturn the findings of the PELRB. It is the evidence presented to this Board concerning the charges filed with this Board that form the basis for the decisions of the Board. A report concerning other problems at the Barrington Elementary School (problems which were known to the PELRB from its hearings) cannot substitute for the findings of fact and rulings of this Board.

Based on the above, this Board could sustain the objection of the New Hampshire Education Association to the submission of the Paire report. However, because this Board has been liberal in granting exceptions to the usual rules of evidence, and because of the finding of the Board that even after reviewing the Paire report

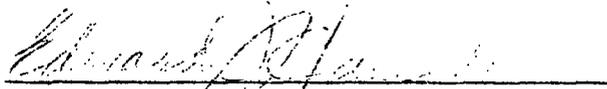
it finds nothing in that report to cause it to change its original ruling, the Board will deny the motion of the New Hampshire Education Association, and receive the report as part of the record, for whatever that might be worth.

As stated, the Board finds nothing in the evidence presented to contradict or alter its Decision No. 79018.

ORDER

The Board issues the following order:

1. The objections of the New Hampshire Education Association to the holding of the hearing and presentation of evidence are denied for the reasons stated in this opinion.
2. The Board reaffirms its Decision No. 79018.



EDWARD J. HASELTINE, CHAIRMAN
PUBLIC EMPLOYEE LABOR RELATIONS BOARD

Signed this 17th day of January, 1980.

Chairman Edward J. Haseltine presiding. Members Moriarty and Cummings also present. All concurred (Mr. Cummings concurring in this decision as to new evidence but continuing to dissent from the original Decision No. 79018). Board Executive Director Evelyn LeBrun and Attorney Bradford Cook also present.